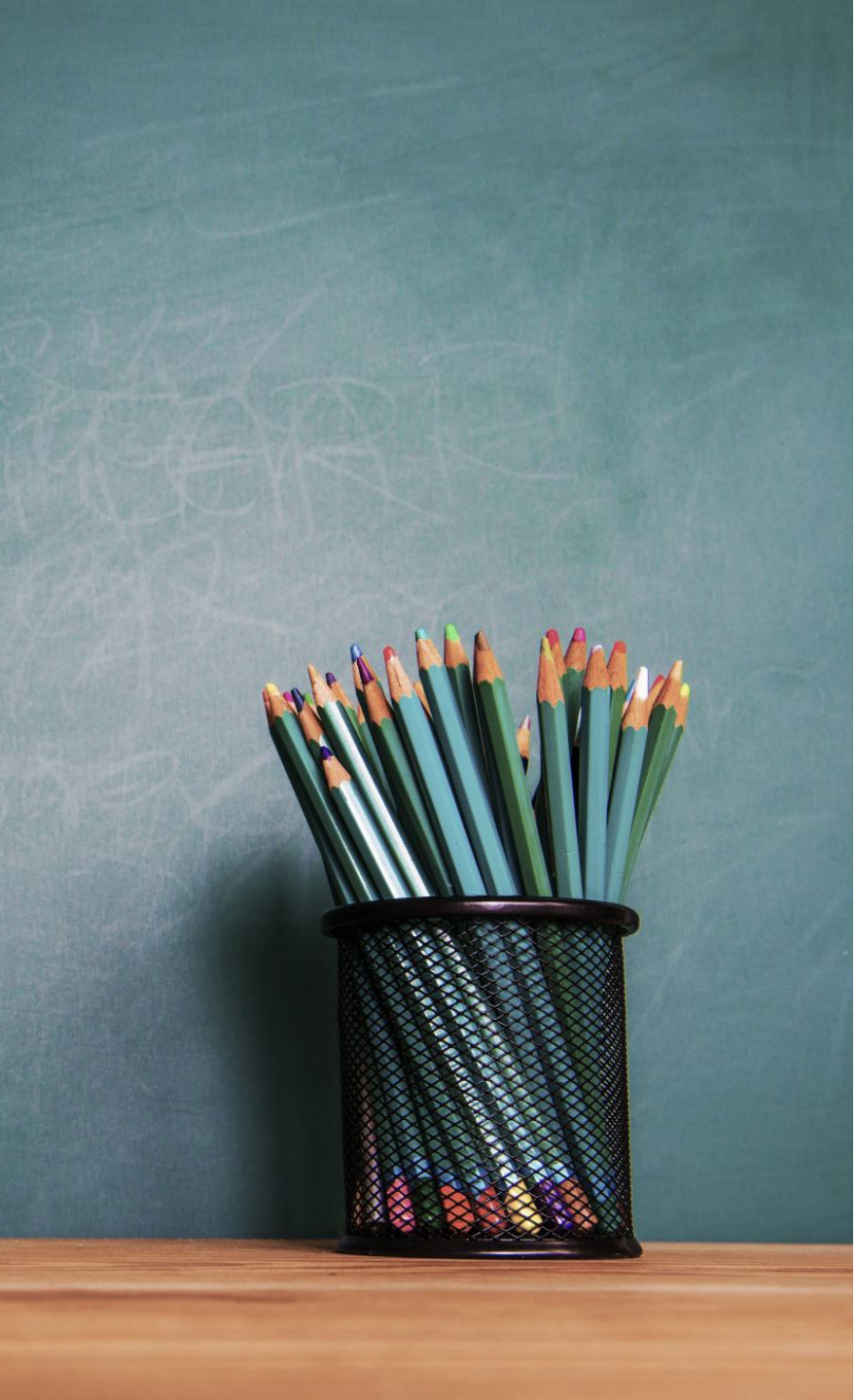

MURTIA and the Ohio 48 hour waiting period

Miami University PA Program 2024

The Ohio 48 hour Rule

- Modified Uniform Rights of the Terminally Ill Act MURTIA
- Provides guidance regarding withdrawal of life support in cases where the patient is terminal, has severe brain injury or is in PVS
- The physicians and network have some protection from liability if the 48 hour waiting period is observed.

The Ohio 48 hour Rule

- Provides guidance regarding withdrawal of life support in cases where the patient is terminal, has severe brain injury or is in PVS
- Often the case is a patient with out of hospital cardiac arrest who may be undergoing the Therapeutic Temperature modulation (TTM) protocol, with a plan to rewarm in 24-48 hours.
- Or other cases in which there is concern for severe anoxic brain injury, but may not demonstrate brain Death.

48 hour waiting period

- Must make an effort to contact “priority individuals”.
- Pt should be made DNR.
- Discuss the 48 hour waiting period as part of the process, and make note of the time this is discussed,
- If there is consensus among the decision makers, may proceed with withdrawal from life support at the end of the 48 hour waiting period
- If the waiting period requirement causes conflict, obtain an ethics consult.

48 hour waiting period

- If there is NOT consensus among decision makers, or if a “priority individual” cannot be contacted, OR if one of the “priority individuals” might raise an objection, then a 48 hour waiting period is mandated by Ohio law.
- The purpose of the waiting period is to give time for an objection,
- If an objection is raised, the objector then must go to Probate Court within 3 business days to request that the spokesperson for the patient be changed.
- That hearing may or may not result in a change of surrogate.

48 hour rule - exceptions

- 1. Brain Death declared – Life support will be withdrawn “within a reasonable amount of time” after family notified.
- There is NO NEED for 48-hour waiting period.
- There is flexibility for family to gather etc if needed.
- 2. Pt requests withdrawal – If there are no concerns regarding pts state of mind, withdrawal may precede, no need for waiting period. (Analogous to pt withdrawing consent for any other treatment)
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- 3. In the case where a patient comes into ER and is intubated, then found to have a valid DNR designation, we may elect to withdraw OR wait the 48 hours, as the laws governing these designations conflict.

48 hour waiting period

- Interestingly, it appears that this statute is not recognized uniformly in Ohio, and many physicians are not even aware of it.
- The key will be to include early discussion about the 48 hour waiting period with families so they will not be surprised once a decision is made.
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- We may want to include a discussion about withdrawal at the earliest indication of severe brain injury, so we can chose to start the waiting period while confirmatory testing proceeds.
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- The law is silent on withholding / withdrawal of dialysis, antibiotics.

48 hour waiting period

There are forms to cover the various scenarios:

Notification record for a patient with a living will

Consent to withhold/ withdraw LST for a patient with a DPOA-HC

Consent to withhold/ withdraw LST for a Non-declarent by a priority individual (for patients without LW or DPOA-HC)

These forms are available in the ICU. Templates in EPIC

For a patient with No LW or DPOA-HC

Greene Memorial Hospital

PATIENT LABEL

CONSENT TO WITHHOLD / WITHDRAW LIFE-SUSTAINING
TREATMENT for a NON-DECLARANT BY PRIORITY INDIVIDUAL
(patient *without* a Living Will or Healthcare Power of Attorney)

NOTE: After the decision is made to withdraw/withhold life-sustaining treatment as directed by the Priority Individual and prior to carrying out such wishes, any action to withhold/withdraw treatment must wait for 48 hours before initiation to allow other persons time within which to tell the attending physician that they object to the decision. Once the physician is notified of any objection, the objecting person has two (2) business days within which to file a complaint with the Probate Court; and if filed, no further action may be taken to withhold/withdraw life-sustaining treatment until further order of the Court. If no objection occurs within the 48 hours, the withdraw/withhold of life-sustaining treatment may be initiated.

Descending Order of Priority Individuals:

1. Legal Guardian
2. Spouse
3. Adult Children (majority)
4. Parents
5. Adult Siblings (majority)

I, the undersigned, do hereby consent to the withholding or withdrawal of the following life-sustaining treatment(s) for _____ (the "Patient"):

Treatment(s) to be withheld / withdrawn (circle which apply):

Cardiopulmonary resuscitation — All of these listed
Ventilator / respirator — Other: _____
Medications to sustain blood pressure — _____

(1) I am making this decision as Priority Individual (i.e., legal guardian or next-of-kin) and I hereby state that to the best of my knowledge the Patient does not have a valid Living Will or Healthcare Power of Attorney.

(2) I am making this decision in good faith following discussion with Dr. _____ the Patient's physician, who has provided me with full and sufficient information to make an informed decision, including any alternative types of treatment. All of my questions regarding this matter have been answered.

(3) My consent to the withholding and/or withdrawal of life-sustaining treatment(s) is:

_____ consistent with the Patient's previously expressed intentions **OR**

_____ consistent, in my opinion, with what the Patient would have desired based on his/her lifestyle and character and any other evidence.

Each of the undersigned is an adult of sound mind and has given this consent voluntarily and in good faith.

Signature:	**Relationship to Patient:**	**Date/Time**
_____	_____	_____
_____	_____	_____
_____	_____	_____

Witnessed by:	**Printed Name**	**Date/Time**
_____	_____	_____
_____	_____	_____

Form # ICU 102
Revised: 02/06

First Steps

- Try to articulate the problem and possible courses of action.
- Rate the urgency of each option
  - Does one argument carry more moral weight?
- Examine your own response
  - What is your bias in a particular case?
- What resources are available to help you solve the dilemma?

How to proceed Clinically

- Establish relationship with family
- Review case (how did she get here)
- Describe level of illness
- Lay out options
- Establish goals
  - Keep pt alive until family gets here
  - Maintain comfort no matter what.
- Establish Limits
  - will not resuscitate pt if heart stops.

Recommendations

- At the end of your discussion, you should have some recommendations.
- If you ask a family what they want to do, they will generally ask for “everything”. Usually what they mean is everything you can do to keep the patient comfortable and prevent suffering, but they may not know how to express this.
- It is much easier for a family to accept limits if you recommend them, and address concerns about keeping the patient comfortable in the process.

Organ Donation

- These patients also are likely to be considered as candidates for possible organ donation.
- Brain Death
- Or Donation after cardiac Death (DCD), if the patients heart stops within a specified period of time after withdrawal from life support.